

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

MARCH 2000 SESSION

FILED

March 17, 2000

Cecil Crowson, Jr.
Appellate Court Clerk

CHARLES A. CRENSHAW,)
)
Appellant,)
)
VS.)
)
STATE OF TENNESSEE,)
)
Appellee.)

NO. M1999-00822-CCA-R3-PC

SUMNER COUNTY

HON. JANE WHEATCRAFT,
JUDGE

(Post-Conviction)

FOR THE APPELLANT:

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OPINION FILED: _____

AFFIRMED

JOE G. RILEY, JUDGE

OPINION

Petitioner, Charles A. Crenshaw, appeals as of right from the summary dismissal of his petition for post-conviction relief. The sole issue for review is whether the trial court should have granted an evidentiary hearing on the basis of allegations of ineffective assistance of appellate counsel. After reviewing the record, we **AFFIRM** the judgment of the trial court.

PROCEDURAL HISTORY

Petitioner was found guilty by a Sumner County jury of facilitating the sale of cocaine. The sole issue in his direct appeal to this Court was whether he was denied the effective assistance of trial counsel. This Court concluded that he was not and affirmed the judgment of the trial court. State v. Charles A. Crenshaw, C.C.A. No. 01C01-9802-CR-00073, Sumner County (Tenn. Crim. App. filed March 9, 1999, at Nashville). Thereafter, petitioner timely filed the instant petition for post-conviction relief.

ALLEGATIONS IN PETITION

The petition for post-conviction relief alleges five specific grounds for relief; namely, (1) the conviction was based on the use of a coerced confession; (2) the conviction was based on a violation of the privilege against self-incrimination; (3) the conviction was based upon the unconstitutional failure of the state to furnish exculpatory evidence; (4) petitioner was denied effective assistance of counsel; and (5) illegal evidence was used to convict the petitioner.

The trial court found that none of the allegations with the exception of ineffective assistance of counsel was supported by any factual allegations. We

agree; therefore, the trial court did not err in dismissing these grounds for relief. See Pewitt v. State, 1 S.W.3d 674, 675 (Tenn. Crim. App. 1999). As to the allegations of ineffective assistance of counsel, the trial court concluded this issue was litigated on direct appeal and was, therefore, “previously determined” pursuant to Tenn. Code Ann. § 40-30-206(h). The trial court dismissed the petition.

ANALYSIS

On appeal petitioner contends his allegations of ineffective assistance of appellate counsel were not previously determined; therefore, the trial court erred in summarily dismissing the petition. We agree that the trial court erred in finding the issue of ineffective assistance of appellate counsel to have been previously determined; however, that does not end our inquiry.

Petitioner makes two allegations concerning ineffective assistance of appellate counsel. Firstly, he alleges appellate counsel was deficient in failing to raise the issue of “heresay (sic) testimony.” No further factual allegations are made. The trial court did not err in dismissing this ground in the absence of factual allegations to support the claim.

Secondly, petitioner alleges ineffective assistance of appellate counsel based upon the failure to raise the issue of sufficiency of the evidence. Specifically, petitioner contends he was unlawfully convicted on the uncorroborated testimony of the informant. On direct appeal this Court summarized the evidence against the petitioner. This Court noted that the police found on petitioner’s person two of the twenty dollar bills that were used by the informant to purchase the cocaine. Thus, even if the testimony of the informant had to be corroborated, it clearly was. For this reason, the petition did not state a colorable claim for relief.

CONCLUSION

The judgment of the trial court is **AFFIRMED**.

JOE G. RILEY, JUDGE

CONCUR:

ALAN E. GLENN, JUDGE

WILLIAM B. ACREE, JR., SPECIAL JUDGE